



U.S. Department of Justice

*United States Attorney
Southern District of New York*

86 Chambers Street
New York, New York 10007

May 24, 2021

By ECF

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *The New York Times Co. v. Federal Bureau of Prisons*, 20 Civ. 833 (PAE)

Dear Judge Engelmayer:

This Office represents defendant the Federal Bureau of Prisons (“BOP”) in this Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, action brought by plaintiff the New York Times Company (the “Times”) seeking the release of certain records related to Jeffrey Epstein. I write respectfully to inform the Court of a development in *United States v. Noel*, 19 Cr. 830 (AT), to propose a schedule for next steps in this case, and to request that this letter be deemed to satisfy the parties’ obligations under the Court’s April 29, 2021, Order, ECF No. 53.

On May 21, 2021, in the *Noel* case, the Government submitted a letter concerning possible deferred prosecution agreements covering each of the *Noel* defendants. *See Letter dated May 21, 2021, United States v. Noel*, 19 Cr. 830, ECF No. 53. On May 24, 2021, Judge Torres scheduled a May 25, 2021, hearing on these potential agreements. *See Order dated May 24, 2021, United States v. Noel*, 19 Cr. 830, ECF No. 54.

In light of this development in *Noel* and anticipated further developments in that case, such as the hearing before Judge Torres and the *Noel* defendants’ anticipated cooperation with a Department of Justice Office of Inspector General review, the Government intends to withdraw its withholding of records in this case under FOIA Exemption 7(A) on the basis of potential interference with *Noel*.

The parties have conferred regarding appropriate next steps in light of this development, and respectfully propose the following. By June 25, 2021, the Government will make a revised production of records or portions of records to the Times, with appropriate redactions based on FOIA exemptions other than Exemption 7(A) and/or FOIA Exemption 7(A) based on potential interference with *United States v. Tartaglione*, 16 Cr. 832 (KMK). The Times will review this revised production, and thereafter the parties will meet and confer. By July 9, 2021, the parties will inform the Court if any disputes remain as to non-7(A) redactions and, if so, propose a schedule for *in camera* production of records still in dispute to the Court.

If this proposed schedule is acceptable to the Court, the parties respectfully request that this schedule replace the May 31, 2021, and June 14, 2021, deadlines ordered by the Court in its April 29, 2021, Order, ECF No. 53.

I thank the Court for its consideration of this submission.

Respectfully submitted,

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